

2006 WL 6142717 (Miss.Cir.) (Trial Pleading)
Circuit Court of Mississippi.
Grenada County

Opal Edwards LOTT, Plaintiff,

v.

Leigh Ann DARBY, Moore & Darby, PLLC, Monnita Kay (Lott) Darby and Richard Howard Darby, Defendants.

No. 2006-277 CVL.
July 12, 2006.

Second Amended Complaint (Jury Trial Requested)

Respectfully submitted, Opal Edwards Lott, Plaintiff.

Of Counsel for Plaintiff: [Robert J. Dambrino, III](#) MSB #5783, [Jay Gore, III](#), Esq., [Robert J. Dambrino, III](#), Esq., Gore, Kilpatrick & Dambrino, PLLC, P.O. Drawer 901, Grenada, MS 38902-0901, phone: 662-226-1891, fax: 662-226-2237.

COMES NOW Opal Edwards Lott, Plaintiff, and files this her First Amended Complaint against Leigh Ann Darby, Moore & Darby, P.A., Monnita Kay (Lott) Darby and Richard Howard Darby, and for cause of action against them shows unto the Court as follows, to-wit:

Parties

I.

Opal Lott is an adult resident citizen of Grenada County, Mississippi.

II.

Leigh Ann Darby is an adult resident citizen of Tate County, Mississippi, who may be personally served with process of this Court at her employment address of 216 South Ward Street, Senatobia, Mississippi, for which let process issue forthwith.

Moore & Darby, PLLC, is a professional limited liability company doing business in Grenada County, Mississippi, which may be served with process of this Court by service upon its registered agent for service of process, H. Kirk Moore, Jr., at the registered address of the corporation, the same being 216 Ward St., Senatobia, Mississippi 38668-2615, for which let process issue forthwith.

Monnita Kay (Lott) Darby is an adult resident citizen of Panola County, Mississippi, who may be personally served with process of this Court at her address of 322 E. Lee Street, Sardis, Mississippi 38666-1221, for which let process issue forthwith.

Richard Howard Darby is an adult resident citizen of Panola County, Mississippi, who may be personally served with process of this Court at his address of 322 E. Lee Street, Sardis, Mississippi 38666-1221, for which let process issue forthwith.

Venue and Jurisdiction

III.

Plaintiff resides in Grenada County, Mississippi; this suit arises out of a tort which was committed in Grenada County, Mississippi; this Court, accordingly, is the proper venue in which to bring this suit; further, this Court has full jurisdiction over the subject matter and parties to this litigation.

Facts

IV.

Defendant Leigh Ann Darby is a duly licensed and practicing attorney and a member of the Mississippi Bar Association; she is also the daughter of defendant Richard Howard Darby, and the step-daughter of defendant Monnita Kay (Lott) Darby. She is a partner in the law firm of Moore & Darby, PLLC, and, at all times pertinent to this Complaint, was acting both as an attorney representing defendants Monnita Kay (Lott) Darby and Richard Howard Darby, as the daughter of defendant Richard Howard Darby, the step-daughter of defendant Monnita Kay (Lott) Darby, and for, on behalf of and as the act and deed of her law firm, Moore & Darby, PLLC.

V.

Plaintiff is the mother of defendant Monnita Kay (Lott) Darby. Michael Lott is the grandchild of Plaintiff; Michael Lott is the duly elected supervisor for District 1 of Grenada County and is expected to be a candidate for reelection to that post. Steven Berry Lott is the grandchild of Plaintiff and brother of Michael Lott. Plaintiff is a widow and is 82 years of age.

Count One: Menace and Extortion

VI.

On or about May 11, 2006, while acting in all of her capacities enumerated in paragraph IV, *supra*, defendant Leigh Ann Darby wrote and (on information and belief), with defendant Monnita Kay (Lott) Darby, hand-delivered a letter and numerous bound attachments to Plaintiff at her address of 3668 Highway 35 South, Holcomb, Mississippi, the same being in Grenada County, Mississippi. A true and correct copy of said letter and attachments is attached hereto, made a part hereof for all purposes, and incorporated herein by reference and marked Exhibit A to this Complaint. She hand-delivered a copy of this package for Grenada County Supervisor Michael Lott, also a resident of Grenada County, Mississippi, which was delivered to Plaintiff; Brian Nail and Amy Kilgore (both Grenada County residents), children of Monnita Kay (Lott) Darby, also received a complete copy of this package.

VII.

Said letter, when read together with its attachments, constitutes a clear and present threat to accuse plaintiffs grandsons with crimes if Plaintiff does not convey one half of all that she owns to defendant Monnita Kay (Lott) Darby; it specifically refers Plaintiff, an **elderly** widow, to specific provisions of the Mississippi Code which provide that her grandson cannot run for County Supervisor if he is convicted of the felony crime for which accusation is threatened by defendant Leigh Ann Darby, and encloses proposed affidavits whereby criminal charges are to be filed against Plaintiffs grandchildren, namely Michael Lott and Steven Berry Lott.

VIII.

There is no basis, justification or excuse offered in said letter for the conveyance of one-half of all that Plaintiff owns.

IX.

This letter is a clear threat by Defendant Leigh Ann Darby, acting in all capacities enumerated in paragraph IV, *supra*, to accuse Plaintiff's grandchildren of a crime and to attempt to prevent Michael Lott from gaining re-election unless Plaintiff conveys property to Leigh Ann Darby's step-mother and client, Monnita Kay (Lott) Darby, and constitutes extortion or an attempt thereat.

X.

Defendants have consummated their threat, conspiracy and design articulated in said letter and, on May 15, 2006, filed criminal charges against Plaintiff's grandson, Michael Lott, in the Justice Court of Grenada County. It is substantially the same affidavit as was threatened in Exhibit A hereto annexed. These charges, whether true or not, have no bearing, relationship, or connection of any kind or character to Plaintiff other than the fact that the accused is Plaintiff's grandson, and the accuser is Plaintiff's daughter.

XI.

In further execution of their threat, conspiracy and design articulated in said letter, and (again) on May 15, 2006, Defendants caused to be filed a civil action in the Justice Court of Grenada County, Mississippi, against Plaintiff and her grandson, Steven Berry Lott (and his wife) seeking their ejectment from lands in Grenada County as threatened in Exhibit A. A true and correct copy of this action is attached hereto and made a part hereof for all purposes and marked Exhibit B to this Amended Complaint.

XII.

In further execution of their threat, conspiracy and design articulated in said letter, and (again) on May 15, 2006, Defendants caused to be filed a civil action in this Court (bearing cause number 2006-276CVM) against Larry Michael Lott (Plaintiff's grandson mentioned herein) alleging property damage to property claimed by defendant Monnita Kay (Lott) Darby. A true and correct copy of this action is attached hereto and made a part hereof for all purposes and marked Exhibit C to this Amended Complaint.

XIII.

Defendants, and each of them, acted individually and in concert to cause the filing of these actions in furtherance of their scheme to extort and force Plaintiff to convey property lawfully owned by her to Defendant Monnita Kay (Lott) Darby. The actions referred to herein are filed in bad faith for the sole purpose of coercing, extorting, forcing and intimidating Plaintiff into conveying said property, in return for which these actions will "go away".

XIV.

Upon information and belief, Defendant Leigh Ann Darby, a licensed, practicing member of the Mississippi Bar Association, partner in the professional limited liability law firm of defendant Moore & Darby, PLLC, daughter of defendant Richard Howard Darby, and step-daughter of his wife, Monnita Kay (Lott) Darby, while acting individually as well as in a representative capacity as attorney for the aforesaid defendants, did state on two separate occasions *after instituting criminal action against Plaintiff's grandson and civil actions against Plaintiff and her grandson and grand-daughter-in-law* that she would cause said criminal and civil actions referred to herein to be dismissed and discharged if, and only if, Plaintiff would convey one half of all of her property to Monnita Kay (Lott) Darby, to be determined by value. Attached hereto, made a part hereof for all purposes and

incorporated herein by reference as Exhibit D is the letter sent by defendant Leigh Ann Darby on behalf of all other defendants herein to Kevin Horan, Esq., on May 17, 2006, wherein the extortion demand is articulated.

XV.

Exhibit D removes all doubt as to the character of Defendants' actions herein. The level of detail set forth in said letter bespeaks cold, calculating subterfuge utilizing superior knowledge of the law, superior mental acumen by virtue of legal training, experience, position and appearance, to unlawfully, intentionally or with gross negligence in the form of careless, reckless, wanton disregard of the rights of Plaintiff, an **elderly** widow, maliciously coerce, intimidate, threaten, extort, and unlawfully compel her to convey one half of all she owns to one of the conspirators. It is alleged herewith that the overriding intent of securing such a conveyance would be and is to secure said property and/or its value for the mutual use, enjoyment, enrichment and good of all defendants hereto.

XVI.

All defendants herein are complicitous in the issuance and delivery of this letter, and are guilty of attempting to gain money or property belonging to Plaintiff by threatening to accuse and accusing Michael Lott of crimes and to seek other civil litigation against Plaintiff and her grandchildren. Such acts are intentional, malicious, wilful, wanton, and in reckless disregard for the rights of Plaintiff.

XVII.

As a proximate result of Defendant's actions, Plaintiff has been placed in desperate fear for the welfare of her family, has been and is distraught, terrified, intimidated, threatened and afflicted with overwhelming dread of impending devastation of her grandchild's reputation and future as a public servant due to adverse publicity if she does not succumb, accede or give in to the demands of Defendants, for which she is entitled to actual, exemplary (including reasonable attorneys fees and all costs accrued herein) and punitive damages of, from and against Defendants, and each of them.

Count II: Intentional Infliction of Emotional and Mental Distress

XVIII.

Plaintiff incorporates herein by reference all and singular of the allegations and averments heretofore set forth.

XIX.

Defendants' wilful and wanton actions were and are calculated to create in Plaintiff, an

elderly widow, such fear and anguish as to coerce her into conveying one half of all of her money and property to Monnita Kay (Lott) Darby. The physical hand delivery of a prodigious and bound package of deeds, affidavits and statutes highlighted by Defendants, under cover of a letter from defendant Leigh Ann Darby on the official letterhead of her law office, effectively accomplished Defendant's desired response and brutally intimidated Plaintiff, placing her in such fear and anxiety that she was unable to sleep, unable to concentrate, focus, or even to eat.

XX.

Plaintiff suffered and continues to suffer severe and debilitating emotional and mental distress as a direct and proximate consequence of Defendants' actions, for which Plaintiff should be awarded actual, exemplary (including reasonable attorneys fees and all costs accrued herein) and punitive damages from Defendants, jointly and severally.

Count III: Negligent Infliction of Emotional and Mental Distress

XXI.

Plaintiff incorporates herein by reference all and singular of the allegations and averments heretofore set forth.

XXII.

In the alternative, Defendants, and each of them, knew, or in the exercise of due care should have known, that the physical hand delivery of a prodigious and bound package of deeds, affidavits and statutes highlighted by Defendants, under cover of a letter from defendant Leigh Ann Darby on the official letterhead of her law office, would brutally intimidate Plaintiff, placing her in such fear and anxiety that she was unable to sleep, unable to concentrate, focus, or even to eat.

XXIII.

Plaintiff suffered and continues to suffer severe and debilitating physical, emotional and mental distress as a direct and proximate consequence of Defendants' actions, for which Plaintiff should be awarded actual damages from Defendants, jointly and severally.

Count IV: Outrageous Conduct

XXIV.

Plaintiff incorporates herein by reference all and singular of the allegations and averments heretofore set forth.

XXV.

The act by Defendants of delivering such an overt threat to a widow of advanced years constitutes outrageous conduct, the foreseeable and proximate consequence of which would be and, in fact, was, the overwhelming fear, anxiety, mental suffering and anguish of an **elderly** grandmother faced with the threat of incarceration and political ruin of her grandson.

XXVI.

Defendant Leigh Ann Darby, as a licensed, practicing attorney, at all times pertinent hereto enjoyed a position of superior knowledge and unfair advantage over Plaintiff, an **elderly** and vulnerable adult. Said defendant used her position of superior knowledge and unfair advantage against Plaintiff, seeking to take advantage of her advanced age and inferior knowledge of the law, toward the end of coercing her to convey half of all of her property to defendant Monnita Kay (Lott) Darby, wife of Leigh Ann Darby's father, defendant Richard Howard Darby. The latter mentioned defendants knew of the actions of Leigh Ann Darby prior to their occurrence, authorized and empowered her to act, or actually participated in said actions personally, and designated her and her law firm, defendant Moore & Darby, PLLC, as their agents for purposes of carrying out this stratagem to obtain ownership of one half of all of Plaintiffs property.

XXVII.

Defendants, and each of them, should be punished for this conduct by imposing upon and against them, and each of them, punitive and exemplary damages (including reasonable attorneys fees and all costs accrued herein) in an amount deemed sufficient by the jury to deter such conduct by these defendants and others similarly situated in the future.

Count V: Violation of the Vulnerable Adults Act

XXVIII.

Plaintiff incorporates herein by reference all and singular of the allegations and averments heretofore set forth.

XXIX.

Plaintiff is a “vulnerable adult” as that phrase is used in the *Mississippi Vulnerable Adults Act*.

XXX.

Defendants knowingly or, in the alternative, negligently engaged in conduct (described hereinabove) the proximate result of which was to **abuse** Plaintiff in violation of the terms and provisions of the *Mississippi Vulnerable Adults Act*.

XXXI.

As a proximate consequence of Defendants' conduct described herein, Plaintiff has been caused to suffer severe and debilitating physical, emotional and mental anguish, for which Defendants are liable to Plaintiff.

XXXII.

Defendants' conduct described herein is, alternatively, in callous, reckless and wanton disregard of the rights of Plaintiff under said *Act*, and as such require under the law that Defendants, and each of them, be punished by the imposition upon them, and each of them, of exemplary and punitive damages (including reasonable attorneys fees and all costs accrued herein) in an amount deemed necessary and requisite to deter such conduct by Defendants and others similarly situated in the future.

Count VI: Conspiracy

XXXIII.

Plaintiff incorporates herein by reference all and singular of the allegations and averments heretofore set forth.

XXXIV

Defendants Leigh Ann Darby, Moore & Darby, PLLC, Monnita Kay (Lott) Darby and Richard Howard Darby acted in concert with each other to formulate a plan of extortion, intimidation and coercion in an attempt to obtain real property and other things of value from Plaintiff in exchange for withholding criminal affidavits against the grandchildren of Plaintiff, post-dated and unsigned copies of which were attached to Exhibit A when delivered to Plaintiff.

XXXV.

Said conduct is and constitutes a violation of Mississippi's *Racketeer Influenced And Corrupt Organizations Act*, for which Defendants should be punished to the fullest extent of the law.

Count VII: Gross Negligence

XXXVI.

Plaintiff incorporates herein by reference all and singular of the allegations and averments heretofore set forth.

XXXVII.

The aforesaid conduct on the part of all Defendants is and constitutes gross negligence toward and against Plaintiff, the proximate consequence of which was and is actual damage in the form of physical, emotional and mental anguish, damage and distress.

XXXVIII.

Such conduct on the part of Defendants should be punished by the imposition against them of exemplary (including reasonable attorneys fees and all costs accrued herein) and punitive damages in an amount deemed sufficient by a jury to deter such conduct by Defendants and others similarly situated; judgment should also be entered against Defendants, and each of them, in an amount sufficient to compensate Plaintiff for her actual damages.

Count VIII: Abuse of Civil Process

XXIX.

Plaintiff incorporates herein by reference all and singular of the allegations and averments heretofore set forth.

XL.

The suits filed by Defendant Monitta Kay (Lott) Darby against Plaintiff and others and attached hereto as Exhibits B and C were and are in furtherance of the commission of extortion of, from and against Plaintiff. As such, the process emanating from the suits attached hereto as Exhibits B and C is in furtherance of extortion and, therefore, illegal.

XLI.

The ulterior motive in filing the suits attached hereto as Exhibits B and C was and is to coerce and intimidate Plaintiff into conveying half of her property to Monitta Kay (Lott) Darby.

XLII.

As a proximate consequence of the filing of the suits attached hereto as Exhibits B and C, Plaintiff has been caused additional severe mental anguish, fear, and distress in addition to being physically ill and unable to sleep; in addition, Plaintiff has been

caused to retain an attorney for the purpose of responding to the charges, and the services of a registered land surveyor in furtherance of her defense.

XLIII.

The filing of said suit for ejectment was done by or with the authorization or at the direction of all Defendants in furtherance of the scheme of extortion set forth herein, which constitutes the ulterior motive for the filing of said suit, and all are complicitous in the filing of this suit.

XLIV.

On the date set for trial of the ejectment/eviction action attached hereto as Exhibit B, Plaintiff appeared ready to defend said suit filed by Defendants herein and, with her attorney and subpoenaed witnesses, announced ready for trial; the action was dismissed, Defendant Leigh Ann Darby appearing through substitute counsel who dismissed the action.

XLV.

Plaintiff sues for and demands judgement of, from and against Defendants, jointly and severally, in an amount deemed sufficient by a jury to compensate her for her actual and consequential damages, as well as exemplary and punitive damages to include costs and attorneys fees.

WHEREFORE, PREMISES CONSIDERED, Plaintiff Opal Edwards Lott sues for and demands judgment of, from and against Leigh Ann Darby, Moore & Darby PLLC, Monnita Kay (Lott) Darby and Richard Howard Darby, jointly and severally, for damages, both actual, exemplary (including reasonable attorneys fees and all costs accrued herein) and punitive, deemed sufficient by the jury to adequately compensate Plaintiff for her damages and injuries, and to punish Defendants for their conduct, plus all costs of court and interest to accrue thereon at the highest permissible legal rate from and after the date of judgment until paid.

Respectfully submitted,

<<signature>>

Opal Edwards Lott

Plaintiff

Of Counsel for Plaintiff:

<<signature>>

Robert J. Dambrino, III MSB #5783

Jay Gore, III, Esq.

Robert J. Dambrino, III, Esq.

Gore, Kilpatrick & Dambrino, PLLC

P.O. Drawer 901

Grenada, MS 38902-0901

phone: 662-226-1891

fax: 662-226-2237

STATE OF MISSISSIPPI

COUNTY OF GRENADA

PERSONALLY CAME and appeared before me, the undersigned authority in and for the aforesaid County and State, and within my jurisdiction, the within named Opal Edwards Lott, who, after being by me first duly sworn, stated upon her oath that she has personal knowledge of the matters and things set forth in the foregoing Complaint, and that they are true and correct as therein stated to the best of her knowledge, information and belief.

SWORN TO and subscribed before me on this the 12th day of July, 2006.

<<signature>>

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